



UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/977,374	11/24/97	BAKKER	W GLP006/JTN

IM71/0922
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EXAMINER
WATKINS III, W

ART UNIT PAPER NUMBER
1772

DATE MAILED: 09/22/99 16

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

*Applicant's
Original Copy of Advisory
Action Report #16 was
never mailed. Applicant's
Original Copy mailed 9/22/99
W. Watkins
4-18-00*



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SERIAL NUMBER <u>05/877</u> , FILING DATE <u>1/24/97</u>	FIRST NAMED APPLICANT <u>BARKER</u>	ATTORNEY DOCKET NO. <u>W GLP006/JTN</u>
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IM71/0630

EXAMINER WATKINS III, W	
ART UNIT 1772	PAPER NUMBER <u>16</u>

DATE MAILED: 06/30/99

Below is a communication from the EXAMINER in charge of this application

COMMISSIONER OF PATENTS AND TRADEMARKS

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ADVISORY ACTION

☒ THE PERIOD FOR RESPONSE:

- a) ☐ is extended to run _____ or continues to run _____ from the date of the final rejection
- b) ☒ expires three months from the date of the final rejection or as of the mailing date of this Advisory Action, whichever is later. In no event however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

- ☐ Appellant's Brief is due in accordance with 37 CFR 1.192(a).
- ☒ Applicant's response to the final rejection, filed 6-14-99 has been considered with the following effect, but it is not deemed to place the application in condition for allowance:

1. ☐ The proposed amendments to the claim and/or specification will not be entered and the final rejection stands because:
- a. ☐ There is no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented.
 - b. ☐ They raise new issues that would require further consideration and/or search. (See Note).
 - c. ☐ They raise the issue of new matter. (See Note).
 - d. ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
 - e. ☐ They present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: _____

2. ☐ Newly proposed or amended claims _____ would be allowed if submitted in a separately filed amendment cancelling the non-allowable claims.

3. ☒ Upon the filing an appeal, the proposed amendment ☒ will be entered ☐ will not be entered and the status of the claims will be as follows:

Claims allowed: _____

Claims objected to: _____

Claims rejected: 36-46

However;

- ☐ Applicant's response has overcome the following rejection(s): _____

4. ☒ The affidavit, exhibit or request for reconsideration has been considered but does not overcome the rejection because _____

See attachment

5. ☐ The affidavit or exhibit will not be considered because applicant has not shown good and sufficient reasons why it was not earlier presented.

☐ The proposed drawing correction ☐ has ☐ has not been approved by the examiner.

☐ Other

Art Unit: 1772

Attachment to Advisory Action Paper No. 16

In general applicant has presented arguments in the request for reconsideration, filed June 14, 1999, regarding the art rejection, that have already been answered in the final rejection. Applicant newly argues that there is an inconsistency in the instant claims being subject to both an art rejection in the instant case and an obviousness type double patenting rejection over the claims of the allowed 08/699,332 application. This is an improper argument in that the rejections of the instant case rise or fall on their own merits and cannot be decided by analogy to PTO actions in other cases. Discussion of the prosecution history of an allowed case by PTO personnel is explicitly forbidden (MPEP 1701). Actions in PCT cases are advisory in nature and not binding on the PTO.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William p. Watkins III whose telephone number is (703) 308-2420.

The examiner's normal work hours are Monday through Friday 9:30 A.M. through 6:00 P.M. The examiner's supervisor is Ellis Robinson whose telephone number is (703) 308-2364. Any general inquiry can be directed to the Group receptionist whose telephone number is (703) 308-0651.

Art Unit: 1772

The Fax number for official **after final** papers is 703-305-3599. The Fax number for official **non-final** papers is 703-305-5408. The Fax number for **informal** non-official communications directed to the examiner is 703-305-5436.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [ellis.robinson@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.



**WILLIAM P. WATKINS III
PRIMARY EXAMINER**

WW/ww
June 29, 1999